

**REMARKS:**

In the outstanding Office Action, the Examiner rejected claims 1-24. Claims 1, 2, 3, 9, 13 and 15-24 are amended herein. No new matter is presented. Thus, claims 1-24 are pending and under consideration. The rejections are traversed below.

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References have been made to portions of the Specification to address the rejections under 35 U.S.C. §112. If there are any pending matters requiring clarification, Applicants respectfully request that the Examiner contact the undersigned before acting on the case in order to expedite prosecution.

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**CLAIM OBJECTIONS:**

On page 2 of the Office Action the Examiner objected to claims 3 and 9 due to informalities.

By this Amendment, claims 3 and 9 have been amended, and no longer include the language in the form objected to by the Examiner.

Therefore, withdrawal of the rejection is respectfully requested.

**REJECTION UNDER 35 U.S.C. § 112¶1:**

Starting on page 2 of the Office Action the Examiner rejected claim 20 under 35 U.S.C. §112, first paragraph.

By this Amendment, claim 20 has been amended and no longer includes the language in the form rejected by the Examiner.

Therefore, withdrawal of the rejection is respectfully requested.

**REJECTION UNDER 35 U.S.C. § 112¶2:**

Starting on page 2 of the Office Action the Examiner rejected claims 1-24 under 35 U.S.C. §112, second paragraph.

The Examiner indicated that it is unclear what is meant by "dynamic determination of availability of recipient." The claimed feature of determining "availability of a recipient" prior to sending the message refers to operation(s), for example, such as checking online presence of a recipient using an instant message (IM) address. Based on the determination, if a message was

successfully delivered to the recipient using delivery device B, a new message to the recipient a short time later may be sent with the delivery device B (i.e., sends the message using the delivery device for which availability is verified). Support for this feature can be found at least at paragraphs 32, 33, 40, 50 and Fig. 4 of the Specification as filed.

Further, by this Amendment, pertinent claims have been amended and no longer include the language in the form rejected by the Examiner.

Therefore, withdrawal of the rejection is respectfully requested.

**REJECTION UNDER 35 U.S.C. § 102(e):**

Claims 1-24 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,760,412 (Loucks).

Claim 1 of the present application recites "continuing, to sequentially select another delivery device by adjusting an order of priority of said delivery devices in the priority table responsive to a dynamic determination of availability of the recipient prior to sending the message" until the recipient receives the message. Applicants respectfully submit that Loucks does not disclose or suggest at least this feature of claim 1. See also independent claims 13, 16 and 19 reciting similar features.

Instead, Loucks discusses a priority order list defining a preferred order of reminder operations where the system goes through the priority order list using the designated order (see, col. 10, lines 51-62, col. 11, lines 42-59 and Fig. 7). In other words, if an event reminder fails, another event reminder previously selected as a second choice by the user is attempted (i.e., priority order list remains the same).

Loucks does not teach or suggest a priority table created by "a sender of the message" based on "reachability of the message to a recipient", as recited for example claim 1. Instead, Loucks discusses priority order lists (144,146) that control the order in which reminder operations are attempted based on prescription of a user who has requested to be reminded of particular events (see, Fig. 3A). Loucks does not enable "a sender" to create a priority table based on "reachability of the message to a recipient", as taught by the claimed invention.

The Examiner appears to assert that Loucks teaches "continuing, to sequentially select another delivery device... by adjusting the priority table responsive to a dynamic determination of availability of the recipient..." when the user answers a call and/or enters a valid password in Loucks (see, at least on page 6 of the outstanding Office Action).

Essentially, the Examiner appears to assert that the teaching of having a recipient answer a call and enter a password for receiving a message in Loucks is equivalent to "continuing, to **sequentially select** another delivery device... by adjusting the priority table responsive to a **dynamic determination of availability of the recipient prior to sending the message**", as recited for example in claim 1 (emphasis added). However, in the teaching pointed out by the Examiner, the Loucks reminder operation has already selected the telephone as a destination for sending the event reminder and performs the passcode for retrieval of the reminder.

Loucks does not teach or suggest "sending the message to a delivery device having a highest priority based on said adjusting." Instead, Loucks simply attempts sending the reminder using the static priority order list previously provided by the user.

Claims 20 and 21 recite "changing an order of priority of each of said delivery devices based on a dynamic determination of availability of the recipient until the message is delivered" and "changing an order of the priorities of the priority table responsive to prior deliveries between cycles in accordance with the dynamic determination", respectively. Independent claims 22 and 23 also recite use of "dynamic determination of availability" for adjusting or changing delivery mechanisms ("delivery destinations" in claim 22). Loucks does not teach or suggest these features since the prestored priority order remains the same in Loucks.

With respect to claim 24, the Examiner asserts that discussion of priority order normal and priority order weekend in Loucks teach the claimed first and second order. Loucks refers to a user selecting a particular priority order list for each event scheduled, "normal" priority order to have the display screen reminder operation attempted first, the work telephone reminder operation attempted second, etc., and "weekend" priority order to have the wireless telephone reminder operation attempted first, the home telephone reminder operation attempted second, etc. (see, col. 12, lines 16-37).

The selection between the "normal" or "weekend" priority order using the GUI in Loucks does not teach or suggest "dynamically changing the first order to a second order of the devices prior to sending the message based on a current determination of availability of the recipient", as recited in claim 24.

Therefore, Loucks does not disclose or suggest at least the feature of "adjusting an order of priority of said delivery devices in the priority table responsive to a dynamic determination of availability of the recipient prior to sending the message." Accordingly, Loucks

does not disclose each and every element of the Applicants' independent claims. In order for a reference to anticipate a claim, the reference must teach each and every element of the claim (MPEP §2131). Therefore, since Loucks does not disclose the features recited in independent claims, as stated above, it is respectfully submitted that independent claims patentably distinguish over Loucks.

Claims 2-12 depend from claim 1 and include all of the features of that claim plus additional features which are not disclosed by Loucks.

The dependent claims are also independently patentable. For example, as recited in claim 3, "if the message has not been delivered after a last delivery device has been selected, selection of delivery devices begins again, starting with the delivery device having the highest priority in the priority table, after a predetermined time has expired." Loucks is limited to a static list of priority list and does not teach or suggest adjusting an order of priority and determining "the delivery device having the highest priority" to send the message, as recited in claim 3 (see also claim 18).

Therefore, withdrawal of the rejection is respectfully requested.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is respectfully submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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